S.B.CIVIL WRIT PETITION NO.1853/1995

Kailash Giri
V.
State of Rajasthan & Ors.

DATE OF ORDER :: 9th February, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. M.S.Singhvi, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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By this petition for writ the petitioner by claiming himself to be an adopted son of Shri Bherulal sought a direction for making payment of Provident Fund and Gratuity to him being legal representative of Late Shri Bherulal who died while in service. The petitioner has also claimed appointment on compassionate grounds being an adopted son of deceased government servant. The claim of the petitioner for appointment on compassionate grounds was rejected by the respondents on the count that he was not validly adopted by Late Shri Bherulal.

In reply to the writ petition it is stated by the respondents that the entire death-cum-retiral amount pertaining to Late Shri Bherulal has already been paid to the petitioner but appointment could not be given to him on compassionate grounds as the adoption said to be made is in violation of the conditions prescribed under Section 10 of the Hindu Maintenance and Adoption Act, 1955.

Heard counsel for the parties.

The petitioner to claim death-cum-retiral benefits including the provident fund and gratuity also placed on record a copy of the succession certificate issued under Section 372 of the Indian Succession Act by District Judge, Pratapgarh on 30.4.1992. The District Judge, Pratapgarh certified the petitioner as successor of Late Shri Bherulal to receive gratuity, provident fund and state insurance. In view of the succession certificate the respondents are under obligation to make the payment of provident fund, state insurance and gratuity of Late Shri Bherulal to the petitioner. As a matter of fact the respondents have already made payment of provident fund and state insurance but the gratuity has not been paid. I do not find any just and valid reason to detain the payment of gratuity.

So far as the question with regard to appointment of the petitioner on compassionate grounds is concerned, the petitioner at the time of filing the writ petition in the year 1995 was of 31 years and now he must have acquired the age of about 43 years. It is well settled that appointment on compassionate grounds cannot be claimed as a matter of right as it is an aid to the wards of deceased government servant in harness, as such at this belated stage it shall not be

appropriate to issue any direction for giving appointment to the petitioner on compassionate grounds.

Accordingly, this petition for writ is disposed of with a direction to the respondent State to make the payment of gratuity accrued in favour of Late Shri Bherulal to the petitioner with interest @ 5.5% per annum within a period of three months from the date the petitioner serves a certified copy of this order upon the respondent No.3.

No order to costs.

(GOVIND MATHUR),J.

Kkm/ps.